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# ***Tax Tips for Hospitals***

***Sales and Use Taxes***

***March 1999***

***Pamphlet No. 45 • LDA***

## Who should read this publication?

This publication is specifically designed for hospitals and similar institutions, as they are defined in Regulation 1503, *Hospitals, Institutions and Homes for the Care of Persons* (see list below). It may also be useful to medical supply companies and other members of the medical care industry.

This publication does not apply to institutions that are operated by the federal government.

- A *health facility* as defined in section 1250 of the *Health and Safety Code*. The facility must hold a license as required by section 1253, or it must be exempt from the requirement to hold such a license, as allowed by subdivision (a) of section 1270.
- A *community care facility* as defined in section 1502 of the *Health and Safety Code*. The facility must hold a license as required by section 1508 of the code, or it must be a residential facility selected by a licensee, as provided for in section 1506, and used exclusively for the reception and care of persons placed by such licensee; or it must be exempt from the license requirement, as allowed by subdivision (f) of section 1505.
- A *residential care facility for the elderly* as defined in section 1569.2 of the *Health and Safety Code*. The facility must hold a license as required by section 1569.10 of the code, or it must be exempt from the license requirement, as allowed by section 1569.145.
- An *alcoholism or drug abuse recovery or treatment facility* as defined in section 11834.11 of the *Health and Safety Code*, which holds the license required by section 11834.12.
- Any house, retirement home, or similar establishment supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age and older. The term “exclusively” is defined to mean that no more than four persons under 62 years of age are in residence during any calendar quarter.
- Any housing that primarily serves older persons and is financed by state or federal programs.

For information on how to order Regulation 1503, please see page 30. For questions regarding definitions used in the *Health and Safety Code*, please contact the California Department of Health.

*Note:* Stand-alone surgical centers may not be considered “health facilities.” See page 28.

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*Note: This pamphlet summarizes the law and applicable regulations in effect when the pamphlet was written, as noted on the cover. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this pamphlet and the law, the latter is controlling.*

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## PREFACE

This pamphlet is intended to help you understand California's sales and use tax law as it applies to hospitals and similar institutions. The guidelines discussed in this pamphlet are applicable to all hospitals, regardless of ownership, except those operated by the federal government.

If you cannot find the information you are looking for in this booklet, please contact our Information Center at 1-800-400-7115. See also Chapter 8 for other information resources.

For general information about sales and use taxes, your obligations as a holder of a seller's permit, how to file tax returns, and registration requirements for other tax and fee programs administered by the Board of Equalization, please see our publication *Your California Seller's Permit*. It includes information on obtaining a permit; using a resale certificate; collecting and reporting sales and use taxes; buying, selling, and discontinuing a business; and keeping records. Ordering information is found on page 30.

We welcome your suggestions for improving this or any other tax tip pamphlet. You may use the reader survey on page 33 to comment, or write to:

Audit Evaluation and Planning  
Section, MIC: 40  
State Board of Equalization  
PO Box 942879  
Sacramento CA 94279-0040

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## **Taxpayers' Rights Advocate**

The State Board of Equalization wants to make dealing with us as easy as possible. Consequently, we have appointed a Taxpayers' Rights Advocate to help you with problems you cannot resolve at other levels.



Taxpayers' Rights Advocate, MIC:70  
State Board of Equalization  
450 N Street  
PO Box 942879  
Sacramento CA 94279-0070

Telephone: 916-324-2798 or 1-888-324-2798  
Fax: 916-323-3319

You can request a copy of Publication 70, *The California Taxpayers' Bill of Rights*, by calling the Information Center at 1-800-400-7115.

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# 1. Hospital Sales and Purchases— In General

## Does tax apply to my sales?

Hospitals are predominantly service enterprises for tax purposes, which means they are generally considered *consumers*, rather than *sellers*, of tangible personal property. As consumers, hospitals will generally pay tax to their suppliers for purchases of property, other than for exempt medicines (see page 3 “Does tax apply to my purchases?”). However, when hospitals act as *sellers* of tangible personal property, as described below, they are required to file returns and report and pay tax on their sales to patients and other buyers.

### Hospital as seller

In general, you are considered a seller if you charge a separate amount for the property and ownership or title to the property passes to the buyer. When you act as a seller of tangible personal property, you are required to report and pay tax unless an exemption applies—for example, sales of medicines, as defined, are exempt from tax, as are other sales described later in this publication. If you lease property to patients, the lease may be considered a taxable sale—see page 19.

Assuming that an exemption does not apply, you are a seller and are liable for tax for the following sales:

*Property administered to patients — for example, casts, splints, bandages, and tubings requiring professional application \**

You are a retailer of the property and are generally liable for tax if

- You charge a separate amount for the property (the charge for the property is not lumped together with other charges), and
- You charge a separate amount identified as a charge for administration of the item, and
- You do not retain or reuse the property, or ownership of the property transfers to the patient.

\* In general, this is property that is not defined as *medicine*. See page 25 for more information on administered property.

### *Other property*

You are a retailer of the property and are generally liable for tax if

- You charge a separate amount for the property (the charge for the property is not lumped together with other charges), and
- You do not retain or reuse the property, or ownership of the property transfers to the patient.

## Examples of taxable sales

In general, you must report and pay tax on the following transactions:

- Cafeteria and snack bar sales (see pages 17-18).
- Sales of meals and guest trays to employees, medical staff, and visitors (see page 17-18).

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*If you are paid by Medicare, your sale may be exempt. See page 21.*

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*HMOs—please see page 28 for information on charges for the use of wheelchairs, crutches, and other equipment.*

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- Sales of property—other than exempt medicines—requiring professional administration to patients if you make separate charges for the property and for administration of the property (see previous page).
- Sales of property—other than exempt medicines—not requiring professional administration to patients (for example, slippers, combs, personal care kits, medical and pharmacy supplies) if you make a separate charge for the property and ownership transfers to the buyer. Includes sales to doctors, nurses, employees, patients, outpatients, and others for personal use on or off the premises.
- Gift shop, bookstore, and newsstand sales (see page 19).
- Coin-operated vending machine sales, including hot or cold food products (see page 18).
- Miscellaneous retail sales of:
  - Metal scrap, dietary waste, used x-ray film and so forth
  - Equipment, furniture and fixtures (see page 20)

#### *Examples of nontaxable sales*

In general, tax does not apply to the following transactions:

- Lump-sum charges for patient services
- Patient charges which are itemized, including:
  - Daily patient services including room and general nursing services, and other nursing services
  - Meals, food products (including hot prepared food products) to patients and outpatients (see page 17-18)
  - Medicines subject to exemption (see Chapter 2)
  - Separately stated charges for administration of dressings, appliances, and other supplies (see page 25)
  - Sales to the U.S. Government of dressings, appliances, and other supplies which are not medicines, when a separate charge has been made (see page 21, “Medicare Payments”)
  - Whole blood or blood plasma sold by a blood center or blood bank (see page 15)
- Miscellaneous charges:
  - Educational programs, such as tuition from nursing schools
  - Research and other special purpose grants, including grants, gifts, or subsidies specified by the donor for research or educational programs
  - Rental of space in hospitals, clinics and schools of nursing and rentals of rooms to employees and others
  - Recovery of charges for personal telephone calls
  - Statutory fees received as a result of service of a subpoena duces tecum (see page 20)

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### Does tax apply to my purchases?

You should normally pay tax to your suppliers on your purchases of property you consume. In general, this is

- Property you use in your business operations, such as office supplies
- Property you provide to patients but do not charge a separate amount for

However, you do not need to pay tax on your purchases of

- *Specifically exempted medicines.* For these purchases, you should submit a tax exemption certificate to your supplier (see page 26). Otherwise, your supplier will generally charge tax.
- *Property other than medicines that you will resell and report and pay tax on.* For these purchases, you should submit a resale certificate to your supplier (see page 27). Otherwise, your supplier will generally charge tax.

In some cases your supplier will not charge tax because the sale of the item is not subject to tax, such as sales of certain food products. Or you may purchase an item from an out-of-state supplier who does not collect California tax.

*Note:* If you do not pay tax to your supplier, you could still be liable for use tax on your purchase. Or, if you do pay tax to your supplier, you could be eligible for a deduction on your return. See pages 4-5 for more information.

### Examples of purchases subject to tax

Listed below are special items and categories of items that are taxable when purchased by hospitals. Generally, these are items that are consumed by hospitals, including items you may provide to patients but for which you are not required to report tax.

- Equipment such as hospital beds, microscopes, x-ray equipment, apparatus, instruments, contrivances or other mechanical, electronic, optical or physical equipment or articles or the component parts and accessories thereof.
- Reusable dinnerware, silverware, and cooking utensils.
- Stationery, business supplies and forms, and so forth.
- Housekeeping supplies including bedding.
- X-ray film and related supplies used in producing diagnostic x-rays (except for cosmetic purposes, see page 14).
- Chemicals and supplies used in laboratory and other diagnostic centers in hospitals—for example, electrocardiology (see page 14).
- Educational supplies used in conjunction with educational programs.
- Articles such as splints, bandages, pads, compresses, supports, dressings, and other items not considered to be medicines which are administered. Hospitals are consumers even though a

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separate charge for the item is made when no other charge identified as a charge for the administration of the item is made (see pages 1 and 25).

- Supply items such as disposable drapes or surgeons' gloves used in surgery for which the patient does not obtain title or possession but is billed a separate charge.

*Examples of purchases  
not subject to tax*

In general, tax does not apply to purchases of the items listed below. As noted on page 3, for some purchases you must submit a resale certificate or tax exemption certificate to your supplier; otherwise, you will be charged tax.

- Medicines (see Chapter 2)
- Meals and food products (including hot prepared food products) furnished or served to and consumed by patients or residents or resold to doctors, nurses, other employees, or others in cafeteria or restaurants (see page 17)
- Disposable items (nonreusable) that become components of meals or food products furnished or served, such as straws, paper napkins, plastic utensils, and paper plates (see page 18)
- Carbonated beverages, distilled spirits, beer, and wine to be furnished or served as components of meals (see page 17)
- Diagnostic substances or preparations intended for use by external or internal application to the human body and furnished by the hospital laboratory, x-ray laboratory, or other diagnostic unit (see page 14)
- Items that are going to be resold such as:
  - Splints, bandages, pads, compresses, supports, dressings, and other items not considered to be medicines when a separate charge is made exclusive of a separate charge for administration
  - Items to be resold in a gift shop, bookstore or newsstand
  - Medicines not specifically exempt and sundry items to be resold in pharmacy
  - Food, soft drinks and other items to be resold through vending machines (see page 18)

*Am I liable for use tax  
on a purchase?*

If you purchase tangible personal property without payment of tax and do not make a sale of the property, you must generally report and pay use tax on your purchase.

You may not have paid tax to a supplier because you submitted a tax exemption certificate or a resale certificate for your purchase, or you may have purchased the property from an out-of-state seller who did not collect California tax.

**Examples**

You purchase office supplies from an out-of-state retailer who does not collect California tax. Since you will not be selling the supplies



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(you are a consumer of them), you must report use tax.

You use a resale certificate to purchase splints which you plan to sell to the patient and charge a separate amount for (a taxable sale); however, you do not charge a separate amount for the splints but include the charge as part of a lump-sum charge that includes other charges. Since you did not bill separately, you are considered a consumer of the property and will owe use tax on your purchase.

To report your tax liability, enter your costs for the items on Line 2 of your sales and use tax return, "Purchases Subject to Use Tax."

*If I pay tax to my supplier and later make a taxable sale of the item, can I take a deduction?*

#### **"Tax-paid purchases resold" deductions**

If you pay tax to a supplier on an item that you later sell and report tax on, you are entitled to a tax-paid purchases resold deduction so long as you did not use the property prior to resale.

*Example.* You purchase slippers, combs, personal care kits, and other nonmedicines that you intend to provide to patients. Since you do not plan to charge a separate amount for the items (you do not plan to make a taxable sale), you pay tax to your supplier for your purchase. However, you later bill separately for the items (you make a taxable sale) and report and pay tax on the sale. You can claim a tax-paid purchases resold deduction.

You can receive credit for your tax payment by deducting your cost for the items. Enter the amount paid, exclusive of tax, on Line 10(c) of your tax return, "Cost of tax-paid purchases resold prior to use."

*Note:* If you pay sales tax to a supplier on a purchase of exempt medicine that you do not resell, you cannot take a "tax-paid purchases resold" deduction. You must request a refund from the vendor.

## 2. Medicines and Medical Supplies and Products

*The exemptions described in this chapter are those that generally apply to hospitals. If you would like information on other exemptions (such as sales in interstate commerce or donations to qualified nonprofit organizations), call our Information Center and request a copy of publication 61, Sales and Use Taxes: Exemptions and Exclusions. Call 1-800-400-7115.*

### Taxability of Medicines and Other Medical Products

The discussion of the taxability of medicines and medical products is divided into the categories listed below. As noted in the following pages, some items are specifically exempted from tax, while others are exempt based on how they are used.

- Medicines (see pages 6-10)
- Insulin syringes (see page 10)
- Wheelchairs, crutches, canes, quad canes, and walkers (see page 11)
- Balloon catheters and other catheters (see page 11)
- Continuous passive motion devices (see page 12)
- Medical oxygen delivery systems/continuous positive airway pressure (CPAP) systems (see page 12)
- Medical kits (see page 12)

### Medicines

Medicines, as defined, are exempt from tax when sold or furnished under the specific conditions listed below.

Pages 7-10 provide examples of items that are defined as medicines. It should be noted that orthodontic, prosthetic, auditory, ophthalmic, and ocular devices and appliances do not qualify as medicines for tax purposes unless they are specifically included in the definition of medicines, as summarized in this section.

To be exempt, medicines must be sold or furnished under the following conditions (some exceptions are noted later).

The medicine must be

- Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law, or
- Furnished by a licensed physician and surgeon, dentist or podiatrist to his or her own patient for treatment of the patient, or
- Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist or podiatrist, or
- Sold to a licensed physician and surgeon, dentist, podiatrist or health facility for the treatment of a human being, or

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The term *prescription* is defined on page 28.

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*Medicines are defined in Regulation 1591, Medicines and Medical Supplies, Devices and Appliances. To order a copy, see page 30.*

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- Sold to this state or any political subdivision or municipal corporation thereof for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof, or
- In the case of hemodialysis products, supplied on order of a licensed physician and surgeon to a patient by a registered pharmacist or by a manufacturer, wholesaler, or other supplier authorized by Section 4050.7 or 4227 of the *Business and Professions Code* to distribute such products directly to hemodialysis patients, or
- Effective March 1, 1995, furnished by a pharmaceutical manufacturer or distributor without charge to a licensed physician, surgeon, dentist, podiatrist, or health facility for the treatment of a human being, or to an institution of higher education for instruction or research. Such medicine must be of a type that can be dispensed only: (a) for the treatment of a human being and, (b) pursuant to prescription issued by persons authorized to prescribe medicines. This exemption applies to the constituent elements and ingredients used to produce the medicines and to the tangible personal property used to package such medicines.

The following are included in the definition of *medicines*:

#### DRUGS AND SIMILAR SUBSTANCES

Any substance or preparation that is intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease and is commonly recognized as intended for such use.

Examples:

Alcohol (70% solution)	Oral contraceptives
Baby lotion, oil, powder	Oxygen
Bone cement	Radioactive pellets
Chemical intrauterine contraceptive devices	Skin staples and preloaded disposable skin staplers
Enemas (nonreusable)	Furacin gauze and dressings
Gelfoam (sponge)	Sterile nonpyrogenic distilled water
Hemostat, surgical cellulose	Surgical soap
Insulin	Sutures
Lubricating jelly	
Anesthetic gases	

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*See also page 13 for examples of items that are excluded from the definition of medicines.*

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#### ARTICLES PERMANENTLY IMPLANTED IN THE HUMAN BODY, INCLUDING SUTURES

Articles permanently implanted in the human body *to assist* in the functioning of any natural organ, artery, vein or limb and which remain or dissolve in the body.

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**Definition of Medicines**  
(continued)

An item is considered to be permanently implanted if the intent is for the item to remain in place for at least six months.

Examples of exempt “permanently implanted articles” items include bone screws, bone pins, and pacemakers. Sutures are included in this category, whether or not they are permanently implanted. A nonreturnable, nonreusable needle fused or prethreaded to a suture is regarded as part of the suture.

With specific exceptions, items that replace, rather than assist the functioning of, all or part of a natural organ, artery, vein, or limb, are excluded from the definition of medicines.

**ARTIFICIAL LIMBS**

Artificial limbs or their replacement parts, including stump socks and stockings worn with artificial legs.

**ORTHOTIC DEVICES**

Orthotic devices and their replacement parts designed to be worn on the person as a brace, support or correction for the body structure. Excludes orthodontic devices.

Orthotic devices include:

abdominal binders	postoperative knee immobilizers
ace bandages	postsurgical corsets
ankle braces	rib belts and immobilizers
anti-embolism stockings	rupture holders
arm braces	sacral belts
casts and cast components	sacrolumbar back braces
cervical supports	shoulder immobilizers
cervical traction devices	slings
clavicular splints	stump shrinkers
elbow supports	support hose
head halters	trusses
neck collars	wrist braces
pelvic traction devices	

Orthotic devices and their replacement parts do not need to be furnished by a registered pharmacist to be considered as dispensed on prescription, so long as they are furnished pursuant to the written order of a physician or podiatrist.

**Note—orthopedic shoes and supportive devices for the foot**

Orthotic shoes and support devices for the foot are not exempt unless they are

- Custom-made biomechanical foot orthoses, or
- An integral part of a leg brace or artificial leg.

The term “custom-made biomechanical foot orthoses” means an individually prescribed foot orthosis which is custom fabricated

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*See also page 13 for examples of items that are excluded from the definition of medicines.*

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*Definition of Medicines  
(continued)*

over a neutral or near neutral subtalar joint with a pronated midtarsal joint position positive plaster model of the patient's foot, which model, when the cast is modified to support the osseous position of the forefoot in relationship to the rear foot, embodies the angular osseous relationships of the anterior and posterior portions of the foot.

In more general terms, a *custom-made biomechanical foot orthoses* means a foot orthosis which moves the osseous bones in the foot to a position in which the correct or ideal positioning of the patient's ankle joint in relation to the leg is obtained. To obtain the desired position, a podiatrist must generally perform numerous tests to determine this position for each patient. Once the desired position is determined, the podiatrist makes a mold of the foot and sends a prescription to an orthotic lab. Following the doctor's instructions, the lab makes adjustments to the mold by adding or removing materials, and then makes an orthotic from the corrected mold.

An arch support does not qualify as a custom-made biomechanical foot orthosis.

**PROSTHETIC DEVICES**

Prosthetic devices and their replacement parts when designed to be worn on or in the patient to replace or assist the functioning of a natural part of the human body. Excludes auditory, ophthalmic, and ocular devices and dental prosthetic devices and materials, such as dentures, bridges, crowns, caps, inlays, and artificial teeth.

Examples of prosthetic devices that qualify as medicines:

Acetabular cups	Heart valve
Atrial valves	Nerve cups
Cervical cuff	Orbital implant
Cranioplastic kits	Rhinoplasty prosthesis
Dacron grafts	Skin staples
Femoral component, poly-central type, total knee	Mammary prostheses (see also below)
Finger joint prosthesis	Skull plates

Prosthetic devices and their replacement parts do not need to be furnished by a registered pharmacist to be considered as dispensed on prescription, so long as they are furnished pursuant to the written order of a physician or podiatrist.

**EYE/EAR**

Artificial eyes or their replacement parts, intraocular lenses for human beings, and ear implants.

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*For information on  
catheters, see page 11.*

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**Definition of Medicines  
(continued)**

**DRUG INFUSION DEVICES**

Programmable drug infusion devices to be worn on or implanted in the human body which automatically cause the infusion of measured quantities of a medicine into the body.

**MAMMARY PROSTHESES**

Includes bras to hold a mammary prosthesis in place, filler pads, adhesive spray and remover, and lymphedema arm sleeves.

**OSTOMY APPLIANCES AND SUPPLIES**

Exempt medicines include any appliances and related supplies that are required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste. In order for these items to be considered medicines, they must be used in postoperative situations or sold as an accommodation to patients. If they are used as an adjunct to surgical procedures, purchases or sales of these items would be subject to tax, unless the appliances remain in the patient for postoperative purposes.

The term "natural waste" is not limited to that type of waste eliminated from the body by its natural function. It is also meant to cover situations where trauma fluid or exudate is removed from the human body.

Examples of ostomy appliances and supplies include:

Adhesive spray and remover	Karaya rings
Antacid used externally as a skin ointment	Loop ostomy supplies
Catheters used as a result of any artificial opening created in the human body	Nonallergenic paper tape and gauze
Closed or drainable stoma bags	Skin bond cement
Colostomy bags	Skin gel
Deodorant used on the patient	Tincture of benzoin applied topically as a protective
	Tubing
	Urinary drainage appliances

Ostomy appliances and supplies are deemed to be dispensed on prescription.

**KIDNEY DIALYSIS MACHINES**

Kidney dialysis machines, including tubing, pumps, blood sets, fistula sets, and shunts that are a part of the machine itself. Kidney dialysis machines are deemed to be dispensed on prescription.

**ANTISEPTIC CLEANSERS/SCRUBS USED BY HOSPITAL PERSONNEL**

Items such as antiseptic surgical cleanser/scrub applied by hospital personnel to their own bodies to benefit the patient and which constitutes a critical component of the patient's treatment.

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*See also page 13 for examples of items that are excluded from the definition of medicines.*

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### Insulin syringes

Tax does not apply to sales of insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes, as directed by a physician.

### Balloon catheters and other catheters

#### Balloon Catheters

Sales of intra-aortic balloon pump catheters and coronary angioplasty balloon catheters are not subject to tax. However, sales of related supplies are subject to tax. The term “related supplies” includes, but is not limited to, coronary guiding catheters, coronary guide wires, guide wire introducers, sheath introducer systems, torquing devices, hemostatic valves, inflation devices, and syringes.

#### Other Catheters

Sales of catheters are generally taxable, with three major exceptions:

1. Catheters which are permanently implanted are nontaxable, since they assist the functioning of a natural organ, artery, vein, or limb and remain or dissolve in the body.
2. Catheters which are used for drainage purposes through artificial openings are nontaxable as ostomy materials and supplies.
3. Catheters or other types of drainage devices used for drainage through natural openings are nontaxable as prosthetic devices designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body.

Catheters may also be exempt if they are an integral and necessary part of another exempt item.

### Wheelchairs, crutches, canes, quad canes, and walkers

Tax does not apply to sales, including leases that are “sales,” of wheelchairs, crutches, canes, quad canes, white canes used by the legally blind, and walkers and replacement parts for these devices—when sold to a patient as directed by his or her licensed physician.

Electric three-wheel scooters that are similar in both design and function to a conventional electric wheelchair, also qualify for exemption when sold or leased to an individual for the personal use of that individual as directed by a physician or surgeon.

*Note—health maintenance organizations (HMOs):* See also page 28, “Health Maintenance Organizations and Charges for the Use of Durable Medical Equipment.”

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*See also page 13 for examples of items that are excluded from the definition of medicines.*

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### Continuous passive motion devices

Electronically powered apparatuses are often worn on the ankle, knee, hip, or finger to stimulate healing of tissues. Since they are designed to assist the functioning of a natural body part, they are considered exempt orthotic devices when fully worn on the body. If they are not fully worn on the body, their sale is subject to tax. For example, some devices are restricted to patients who must lie in bed while the device is attached to a stationary object such as a bed frame. These devices are not considered exempt medicines.

### Medical oxygen delivery systems

Tax does not apply to the sale or use of medical oxygen delivery systems when sold or leased to an individual for the personal use of that individual under the direction of a physician.

The term “medical oxygen delivery systems” includes liquid oxygen containers, high pressure cylinders, regulators, oxygen concentrators, tubes, masks, cylinder carts for ambulating, cylinder stands, and related items necessary for the delivery of oxygen to the person. It also includes repair and replacement parts for use in such a system.

Continuous positive airway pressure (CPAP) equipment sold or leased to individuals for the treatment of a sleep disorder such as sleep apnea, may also be nontaxable as a medical oxygen delivery system. CPAP equipment continuously supplies a small amount of pressure to the user’s airway, as distinguished from similar devices that only assist the patient in breathing and do not deliver air or oxygen directly into the patient’s lungs. Devices that only assist the patient’s breathing process and, as such, do not deliver air or oxygen directly into the patient’s lungs, are subject to sales tax.

### Medical kits

Because medical kits often consist of exempt medicines and taxable administration equipment, the exempt charges should be segregated from the taxable charges. Regardless of the percentage value of the exempt portion of the sale, the charge for the medicines are exempt while the charges for the remainder of the kit are taxable.



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## Items Excluded from the Definition of Medicines

The term *medicines* does not include the items listed below (this list is not all-inclusive). Consequently, sales and purchases of these items are generally taxable.

- Orthodontic, auditory, ophthalmic or ocular devices or appliances.  
(However, see also page 9, “Eye/Ear,” for examples of specifically exempted items.)
- Dentures, including removable plates, fixed permanent bridges and permanently implanted artificial teeth, crowns, caps, inlays and other prosthetic materials and devices.
- Articles which are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices or other mechanical, electronic, optical or physical equipment or article or the component parts and accessories thereof, arch supports, cervical pillows, exercise weights (boots or belts), orthopedic shoes and supportive devices (unless they are a “custom-made biomechanical foot orthoses” or an integral part of a leg brace or artificial leg), plastazote inserts, plastazote shoes, plastic shoes (custom or ready-made), sacro-ease seats, shoe modifications, spenco inserts, traction units (other than those fully worn on the patient), thermophore pads, or foot orthoses.
- Hospital beds, including specialized or therapeutic beds.
- Any alcoholic beverage the manufacture, sale, purchase, possession or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9, commencing with Section 23000, of the Business and Professions Code).
- Bathroom equipment, nebulizers, trapeze bars, patient hydraulic lifts, I.V. stands and restraints, enteral and parenteral feeding equipment and supplies (tubes, pumps and containers), bone fracture therapy devices and hand exercise equipment.
- Specially designed hand utensils, grooming and dental aids, eating and drinking aids, shampoo aids and household aids.
- Glucose meters and supplies, non-insulin syringes.
- Condoms and diaphragms.

### 3. Other Hospital Departments and Programs

#### Laboratories

(including x ray, electro-cardiology, and so forth)

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See also Regulation 1528, Photographers, Photocopiers, Photo Finishers and X-Ray Laboratories. To order a copy, see page 30.

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#### Taxability of laboratory charges

Hospital laboratory charges are generally for professional services and are not subject to tax. However, charges related to cosmetic procedures may be subject to tax, as explained below.

*Cosmetic procedures.* You are considered a retailer and must report and pay tax on charges for photographs and X-ray films related to “cosmetic” procedures, which includes any surgery to improve a patient’s appearance by plastic restoration, by removal of blemishes, and so forth. You should separately state the price for these taxable products from the price for nontaxable X rays or photographs on your billings.

#### Application of tax to laboratory purchases

Hospital laboratories are generally consumers of tangible personal property used in their operations. As consumers, they will generally pay sales tax reimbursement to their suppliers for their purchases of such property. However, tax does not apply to purchases of

*Exempt medicines.* Only those testing products that are administered in the living body (*in vivo*) would qualify as exempt medicines—products such as radiopaques, opaques and dyes, glucose tolerance test substances. Testing products that are applied outside the living body (*in vitro*) and in an artificial environment do not qualify as exempt medicines—such as clinitest tablets, acetest tablets, and litmus paper.

*X-ray film used for cosmetic procedures* (see “cosmetic procedures” above). You may issue a resale certificate to your supplier for x-ray film that will be used for cosmetic procedures. In these transactions, the patient is regarded as the consumer of the x-ray film, and you must pay tax on your sale of the film to the patient.

#### Optical Departments

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See also Regulation 1592, Eyeglasses and Other Ophthalmic Materials. To order a copy, see page 30.

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Typically, in a hospital operating an optical department, a registered dispensing optician fills prescriptions prepared by physicians, surgeons or optometrists. In these situations the hospital is the consumer of ophthalmic materials, including eyeglasses, frames, lenses or their replacement parts. A hospital is also the consumer of lenses and frames furnished as duplications or replacements of parts of eyeglasses or contact lenses which were previously prescribed by a physician and surgeon or optometrist. As the consumer, the hospital will generally pay tax to their vendor when they purchase these items (if not, the hospital is liable for use tax on the purchase).

*Please note:* Sales of nonprescription eyewear (such as noncorrective sunglasses or noncorrective colored contact lenses) are taxable. In

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these instances, the hospital is the retailer of ophthalmic materials and tax applies to their sale. Sales of such lenses are taxable, whether sold by a pharmacist, physician, optometrist or optician.

### **Pharmacies**

Tax does not apply to pharmacy purchases and sales of exempt medicines, as described on pages 6-10. The exempt status of "medicines" is not affected if it is dispensed to inpatients or outpatients.

If the hospital pharmacy distributes items that do not qualify as "medicines" to hospital wards for staff use (other than items directly administered to the patients), the pharmacy will owe use tax based on their purchase price for those items if the pharmacy purchased the items for resale or from an out-of-state supplier who did not collect California sales or use tax. Use tax is paid by reporting the purchase price on Line 2 of the sales and use tax return, "Purchases Subject to Use Tax."

*Replacement contact lenses.* Beginning March 1, 1998, tax does not apply to pharmacists' sales of replacement contact lenses if they are dispensed under a prescription prepared by a physician and surgeon or optometrist. Similar to optometrists and dispensing opticians, pharmacists who fill replacement contact lens prescriptions prepared by an optometrist or by a physician and surgeon are considered the consumer of the lenses. As the consumer, pharmacists must pay tax on their purchases of lenses when they buy them. *Please note:* Sales of nonprescription lenses are taxable whether they are sold by a pharmacist, physician, optometrist or optician.

*Gift shop.* If your pharmacy also operates a gift shop, please see page 19, for guidelines regarding the application of tax to those sales. You may also want to request copies of the following publications: 73, *Your California Seller's Permit*, and 27, *Tax Tips for Drug Stores*, for more information on such sales (see page 30 for ordering information).

### **Blood Centers/ Banks**

Section 33 of the Revenue and Taxation Code provides that sales of human blood and blood plasma are exempt from taxation. Effective April 1, 1998, tax does not apply to the sale or use of any container used to collect or store human whole blood, plasma, blood products, or blood derivatives that are exempt from taxation pursuant to section 33. The exemption also applies to blood collection units and blood pack units. (Prior to April 1, 1998, only the blood bags which were sold along with the blood were exempt as containers.)

Blood pack units generally consist of a plastic bag or bags, disposable tubing, and a needle. Blood collection units may include a needle, multiple bags, a bag of saline solution, tubing, filters, grommets, a plastic bowl containing a stainless steel centrifuge and a pooling bag. Under the new law, sales of these blood collection and pack units are not taxable even if the tubing, needles, filters, etc. are discarded and not sold together with the blood.

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## Visiting Nurse Programs

If your hospital has a visiting nurse program (your personnel provide services to patients at their homes), your sales of medicines under that program are generally taxable.

When a visiting nurse program furnishes medicines to patients at home, the sale of those medicines is generally subject to tax since the medicine is not considered to be furnished by a “health facility,” as defined in Regulation 1591(g), *Medicines and Medical Supplies, Devices, and Appliances*. As a result, when a visiting nurse furnishes medicine to a patient on the order of a doctor, the medicine is generally subject to tax. If the patient is provided with an itemized bill, the visiting nurse program is the retailer of the supply item used on or provided to the patient—regardless of the technical or professional nature of the services involved.

If you operate a visiting nurse program, the application of tax to your transactions can be complicated. Please call our Information Center, 1-800-400-7115, for more information.

## 4. Food Service Sales

*The following information explains how tax applies to your hospital food service operations. For additional information on this subject, we recommend that you obtain a copy of publication 22, Tax Tips for the Dining and Beverage Industry, or Regulation 1603, Taxable Sales or Food Products. See page 30 for information on how to order this material.*

### **Taxability Of Food And Beverage Sales—In General**

In general, sales of food and beverages are subject to tax when tables, chairs, or counters are provided or food is sold on trays, glasses, dishes or other non-disposable tableware provided by the hospital (such as food sold in a cafeteria, restaurant, or snack bar operated by the hospital). Beverages and cold food products sold á la carte may not be taxable when sold on a “to go” basis. For more information on these sales, please request a copy of publication 22, *Tax Tips for the Dining and Beverage Industry*. See page 30 for ordering information.

Sales of hot food and edible nonfood items such as alcoholic and carbonated beverages are taxable no matter where they are sold (see exceptions for patient and student meals below).

### **Patient Meals**

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*Guest trays sold to visitors  
are subject to tax.*

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Meals (including hot prepared food products) supplied or sold to patients or residents are exempt when sold or supplied by hospitals. The exemption for patient meals is not affected by a food contractor serving the meals or by selling the meals to a hospital which serves them. The exemption also applies to outpatients while they are in the hospital. However, sales of guest trays to visitors are not exempt as patient meals.

Sales of carbonated beverages, beer and wine when served by the hospital as *part of the patient's meal*, regardless of whether a separate charge is made, are considered exempt.

### **Student Meals**

Meals and food products (including hot prepared food products) sold to students who are enrolled in a school operated by a hospital are not subject to tax. For this exemption to apply, the meals or food products must be furnished, prepared or served for consumption at tables, chairs, or counters or from trays, glasses, dishes or other tableware. This exemption does not apply to meals served to student volunteers, student nurses, interns, and so forth, unless they are enrolled at the school operated by the hospital.

The exemption for student meals only applies when meals and food products are sold to students *by schools*. The exemption does not apply if a caterer or independent food contractor sells meals directly to the students.

Sales of carbonated beverages, beer and wine when sold for a single price as part of the student's meal are considered nontaxable.

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### **Items Sold With Meals**

Nonreusable items—such as napkins, straws, disposable dinnerware, paper or foam plates or bowls, disposable drink cups, isolation trays, paper covers for cups, and plastic wrap—are considered to be included in the price for the food or beverage. Consequently, you can purchase these items without tax by issuing a resale certificate to your vendor. Items which are reusable—such as china, silverware, glasses, and so forth—are not considered sold with a meal and tax must be paid when purchased.

Disposable menus used by patients to order meals are not component parts of meals. Consequently, you must pay tax when you purchase those items.

### **Coin-Operated Vending Machines**

Commissions received from vending machine operators who have placed vending machines on your premises are not subject to tax.

Some hospitals, however, operate their own vending machines. If you operate your own vending machines, you are generally required to report tax on all food product sales, including sales of beverages, hot prepared food products, candy and candy-coated gum (sales through bulk vending machines are not taxable). However, a partial tax exemption applies to vending machine sales of cold food products, hot coffee, hot tea and hot chocolate. For more information about how to report these sales, please request a copy of Regulation 1574, *Vending Machine Operators*. See page 30 for ordering information.

## 5. Other Hospital Sales

### Equipment Leases and Rentals

In general, when you rent equipment to patients, you are acting as a leasing company and must

- Pay tax to your vendor when you purchase the item, or
- Collect use tax from the lessee based on rental receipts, or
- Timely elect to report and pay use tax on based on your purchase cost for the equipment (this must be done in the reporting period in which the equipment is first placed into service).

Tax must be paid based on rental receipts if (1) you did not pay tax to the vendor at the time of purchase, or (2) you did not report and pay use tax based on your purchase costs in the reporting period when the equipment was first placed into rental service, or (3) you rent the equipment in a form that is substantially different from the form in which you acquired it.

#### Exceptions

Tax does not apply to leases of equipment considered to be medicines under the Sales and Use Tax Law (for example, tax does not apply to leases of kidney dialysis machines to patients). And tax may not apply to leases of wheelchairs, crutches, canes, quad canes, and walkers. See page x for more information.

For additional information, please read Regulation 1660, *Leases of Tangible Personal Property—in General*, and publication 46, *Tax Tips for Leasing of Tangible Personal Property in California*. See page 30 for information on how to order.

### Gift Shops, Bookstores, and Newsstands

Generally, gift shop, bookstore and newsstand sales of tangible personal property are subject to tax, even if the store is operated by auxiliaries or other volunteer organizations (see section below). Typical nontaxable items sold by gift shops include candy, gum, confection, and other cold food products. *Please note:* Carbonated beverages are not considered food products; sales of these beverages are subject to tax.

### Volunteer Organizations (Auxiliaries)

Generally, volunteer organizations working in conjunction with hospitals organize and perform volunteer work in the hospital. In many instances, hospital volunteer organizations will operate the gift shop, snack bar, or other operation where retail sales are made. Contrary to a common belief, there is no general exemption from sales tax on sales made by nonprofit organizations. Generally, if a volunteer organization operates a retail selling operation either within or outside the hospital, it is required to obtain a seller's permit, collect sales tax on retail sales, and file sales tax returns.

Volunteer organizations may also be involved in fund-raising activities such as charity dinners and auctions. As explained above, sales of



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tangible personal property are generally taxable even if the items sold are donated and the proceeds benefit a charitable cause. For more information, please request a copy of our publication 18, *Tax Tips for Nonprofit Organizations*. See page 30 for ordering information.

## **Sales Of Capital Assets**

Since hospitals are predominantly service enterprises, sales of capital assets used in the performance of hospital services, such as hospital beds or medical equipment, are generally considered occasional sales and are not subject to tax. If, however, the hospital makes more than two of these asset sales for substantial amounts in any 12-month period, the gross receipts from those sales would be subject to tax.

*Please note:* Hospitals that operate a retail department such as pharmacy, gift shop, cafeteria, or snack bar as adjuncts to the hospital, must report tax on the sale of fixtures and equipment used in the operation of these business. For example, the sale of display counters and cash registers located in a gift shop would be taxable. For further information, see Regulation 1595, *Occasional Sales — Sales of a Business—Business Reorganization*. See page 30 for ordering information.

## **Photocopies Of Medical Records**

### **Hospital sells photocopies to requesting party**

You are generally required to pay tax on sales of photocopies of medical records unless you are required by law to furnish copies of such records. For example, you are not required to report and pay tax on your charges if the photocopies are furnished to the patient, or to someone acting on behalf of the patient, or to the patient's representative, as provided in Health and Safety Code section 123110(b).

Likewise, you are not required to report and pay tax if you are required to provide photocopies in response to a written authorization or subpoena duces tecum presented by an attorney or the attorney's representative as provided in Evidence Code Sections 1158 and 1563.

These fees remain nontaxable if a photocopying service makes and sells the copies to you to resell to the requesting party.

*Transcriptions of medical reports.* Tax does not apply to a separately stated charge for providing a typewritten transcription of a medical report or an interpretation of the contents of a medical record; however, tax applies to the fair retail value of any photocopies produced for a customer in connection with these nontaxable services.

### **Photocopying service sells photocopies to requesting party**

If a copying service, by agreement with the hospital, makes photocopies of medical records, furnishes them directly to the requesting party, and bills the requesting party directly for the copies, the charges are taxable.

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*For additional information, see Regulation 1528, Photographers, Photostat Producers, Photo Finishers and X-Ray Laboratories. To order a copy, see page 30.*

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## 6. Other Tax Issues

### How Payment Sources Affect Tax Liabilities

#### Insurance company payments

There is no effect on the application of tax to a sale if payments are made by an insurance company. Such payments are treated as though they had been made directly by the patient.

#### Medi-Cal payments

As with insurance payments, Medi-Cal payments are treated as though the payment was made directly by the patient. They do not affect the application of tax.

#### Medicare payments

*Part A payments.* Tax does not apply to the sale of property if payment for the property is made under Part A of the Medicare Act. The sale qualifies as an exempt sale to the U.S. Government.

The billing for the property must be separately stated. Also, if the property requires administration to the patient, you must separately state the charges for administration (see page 25). Normally, the billing received by the patient will be used to determine whether charges are separately stated. However, if no billing is issued to the patient, the billing issued to Medicare will be used.

#### *Notes:*

If you do not bill separately (that is, you charge a lump sum amount), you are generally considered a consumer of the property sold and are not required to report and pay tax on the sale. If you purchase such property for resale or from an out-of-state supplier who does not collect tax on your purchase, you must report and pay use tax, based on your purchase price. Since you are not selling the property, no deduction should be taken as a sale to the U.S. Government.

If the property being sold is already exempt (such as medicines), a second deduction is not allowed for sales to the U.S. Government.

Since Medicare reimburses for reasonable cost, only amounts actually received from the government are allowable under this deduction.

*Part B payments.* Sales made under Part B of the Medicare Act do not qualify as exempt sales to the U.S. Government. Unless the sale is exempt for another reason (such as the sale of an exempt medicine), you must report and pay tax on the transaction.

### Research Grants

You may receive funding from government or private sources to initiate or continue research in the development of cures or treatments for human illnesses or diseases. You are the consumer of all equipment and supplies used for such research. As a consumer, you will generally pay tax to your supplier (see exception on next page). If you purchase

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from an out-of-state vendor, that vendor may not collect tax, in which case you must report the purchase on your return under "Purchases Subject to Use Tax."

*Exception—property purchased for the U.S. Government.* Tax does not apply to your purchase of property used for research if you purchase the property for the U.S. Government and title to the property passes to the government *prior* to use.

## Recordkeeping

You are required to keep business records so that Board representatives can

- Verify the accuracy of your sales and use tax returns
- Determine if tax is due if a return has not been filed

Your records must include

- The normal books of account, which can include information stored on computers
- Documents of original entry (bills, receipts, invoices, job orders, contracts, or other documents supporting the entries in the books of account)
- All schedules or working papers used to prepare tax returns

You should also retain resale and exemption certificates and other information needed to substantiate exemptions and deductions.

You must keep records pertaining to sales and use tax liabilities for a period of four years unless the Board gives written authorization for their earlier destruction. If your records are being audited by the Board, you should retain all records for the period being audited until the audit is completed.

*Prescribed medicines:* In addition, prescriptions must be retained by in-house pharmacies to support exemptions for sales of prescription medicines. A valid prescription must contain

- Name, address, and signature of the prescriber
- Prescriber's license classification
- Name and address of the patient
- Name and quantity of the drug or device prescribed
- Directions for use
- Date of issue

*Items "deemed to be dispensed on prescription."* As noted on pages 6-12, some items, when sold by a pharmacist as directed by a physician, are "deemed" to be dispensed on prescription. The following information is needed for such sales:

- Name of purchaser
- Name of doctor
- Date of sale
- Item sold
- Selling price

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## Reimbursement for sales tax

Although you are required to pay and report sales taxes to the Board, you may be reimbursed by the purchaser for the amount of tax you owe on a sale. For example, if you are required to pay \$10.00 in sales tax, you may pass that cost on to the purchaser, provided it is agreed to as part of the sale. It is presumed that the customer agrees to pay the addition of tax if

- You list a separate amount for sales tax reimbursement on your receipts or invoices; or
- You post a sign on your premises stating that sales tax reimbursement will be added to all prices of taxable merchandise, or make a similar statement on price tags, advertising material, and other printed material directed to the purchaser; or
- The sales agreement specifically calls for the addition of sales tax reimbursement

If you include sales tax reimbursement in your prices, rather than itemizing it separately on your invoices or receipts, you must inform the buyer that tax is included. You can post this information at your premises in a location that is visible to purchasers; or you can include it on a price tag or in an advertisement (whichever is applicable). Use one of the following statements:

- All prices of taxable items include sales tax reimbursement computed to the nearest mill; or
- The price of this item includes sales tax reimbursement computed to the nearest mill.

## Collection of Too Much Tax

If you collect more tax than is required for a sale, the excess amount must be returned to the purchaser or paid to the state.

## Deductions and Exemptions

### Sales for resale

You may sell or trade in equipment or sell supplies to others who intend to resell the merchandise. You must obtain a resale certificate from the purchaser to document the sale as nontaxable. For more information on the acceptance or use of resale certificates, see publication 73, *Your California Seller's Permit*, or publication 103, *Sales for Resale*. See page 30 for information on how to order these publications.

### Tax-paid purchases resold

If you have paid an amount for sales or use tax on a purchase and make a taxable sale of the property prior to using it, you can take a deduction on your return to recover the tax amount paid. When you report the sale, enter your cost (purchase price excluding tax) for the item under "Tax-paid Purchases Resold."

### Bad debts

If you have reported and paid tax on a sale and have been unable to collect payment, you may claim a bad debt deduction. The deduction

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can only be taken for the amount of taxable sales, excluding any applicable tax, such as uncollectible accounts or bad checks. The bad debts must be written off for income tax purposes, or, if you are not required to file income tax returns, they must be written off in accordance with generally accepted accounting principles.

Note: There are many rules that govern deductions for bad debt losses. You may wish to request a copy of Regulation 1642, *Bad Debts*, for more information.

**Other common deductions and exemptions**

As explained in other parts of this publication, certain hospital sales are not subject to sales and use tax. You may take a deduction on your sales and use tax return for these sales, including:

- Prescription medicines (see pages 6-10)
- Certain food products (see pages 17-19)
- Sales to the U.S. Government (see “Medicare Payments,” page 21)
- Labor and services (see page 2)

## 7. Appendix

### Property Administered to Patients or Residents

Unless an exemption applies, you must report tax on your sales of “administered” property if

- The property requires professional administration (for example, by a hospital employee, attending physician, or private nurse), and
- You make a separate charge identified as a charge for administration of the property (a room charge does not constitute a separately stated charge for administration), and
- You make a separate charge for the property itself,
- You do not retain or reuse the property or ownership of the property transfers to the patient.

If you charge a patient for property that is professionally administered and do not meet the above conditions, you are a consumer of the property. You are not considered a seller and as a result are not required to report and pay sales tax on your charges. As a consumer, you will generally pay tax to your supplier at the time you purchase the property to be administered.

If you do make a taxable sale of the property, as described above, the separately stated charge for the property is subject to tax, while the separately stated charge for administration of the property is not subject to tax.

If you charge a single or lump-sum amount, it is presumed the charge includes administration charges and that you are a consumer of the property—unless it can be shown that the attending physician billed the patient separately for the administration of each specific item.

The administration of the property must be of a technical or professional nature, such as giving injections or other internal applications, and applying casts, splints, dressings and bandages. The term “administration” does not refer to oral applications, such as administering pills or liquids for swallowing.

The property sold must be nonreusable or it must remain with the patient to use as he or she chooses.

### Exemption Certificates

When purchasing medicines (as defined on pages 6-10), you should issue an exemption certificate as provided in Regulation 1667, *Exemption Certificates*. You can also use an exemption certificate to purchase items that may be considered medicines depending on their use, such as ostomy appliances and catheters (see page 10).

Your supplier will not apply tax to your purchase if you submit a properly completed certificate.

No specific form of the certificate is required; however, the certificate must contain the following information:

- The name and address of the purchaser
- The number of the seller's permit held by purchaser (if the purchaser is not required to hold a permit, a notation should be entered to that effect, explaining the reason a permit is not required)
- A description of the property to be purchased
- The date of the document
- The signature of the purchaser or someone approved to act on his or her behalf
- A statement explaining how the property will be used to make the sales tax inapplicable to the sale

A suggested format is provided below.

*Sample  
exemption certificate  
(may be reproduced)*

<b>TAX EXEMPTION CERTIFICATE</b>	
	(NAME OF PURCHASER)
	(ADDRESS OF PURCHASER)
<p>I HEREBY CERTIFY:</p> <p>That I hold a valid seller's permit number _____ issued pursuant to the Sales and Use Tax Law. I am a Health Facility under provisions of section 6369 of the California Revenue and Taxation Code; I further certify that the property described below purchased from</p>	
	(NAME OF VENDOR)
<p>will be used for the treatment of human beings as provided by Regulation 1591 of the California State Board of Equalization.</p> <p>Description of property to be purchased:</p> <p>_____</p> <p>_____</p> <p>_____</p>	
<p>Date: _____ 19 ____</p>	
	(SIGNATURE OF PURCHASER OR AUTHORIZED AGENT)
	(TITLE)

## Resale Certificates

As noted on page 3, you can submit a resale certificate to your supplier to purchase property, other than medicines, that you will resell and report and pay tax on. If you submit a properly completed resale certificate, your supplier will not charge tax.

*Sample  
resale certificate from  
Regulation 1668  
(may be reproduced)*

California Resale Certificate
(Name of Purchaser)
(Address of Purchaser)
I HEREBY CERTIFY: That I hold valid seller's permit No. _____ issued pursuant to the Sales and Use Tax Law; that I am engaged in the business of selling _____ _____;
that the tangible personal property described herein which I shall purchase from: _____ will be resold by me in the form of tangible personal property; provided, however, that in the event any of such property is used for any purpose other than retention, demonstration, or display while holding it for sale in the regular course of business, it is understood that I am required by the Sales and Use Tax Law to report and pay tax, measured by the purchase price of such property or other authorized amount.
Description of property to be purchased: _____ _____ _____
Date: _____ 19____
(Signature of Purchaser or Authorized Agent)
(Title)

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## Prescription Defined

To be exempt from tax, medicines sold by pharmacists and others must generally be prescribed by a licensed physician for the treatment of a patient or be furnished or provided in another manner prescribed by law (see Chapter 2).

Section 4036 of the Business and Professions Code defines *prescription* as follows:

“Prescription” means an oral order given individually for the person for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug or device prescribed, directions for use, and the date of issue.

No person other than a licensed physician, dentist or podiatrist is authorized to prescribe or write a prescription for the treatment of a human being.

## Health Maintenance Organizations and Charges for the Use of Durable Medical Equipment —wheelchairs, walkers, crutches, quad canes, and so forth

Health Maintenance Organizations (HMOs) that operate hospitals and clinics often provide durable medical equipment, such as wheelchairs, walkers, and so forth, at no cost to members when ordered by a physician. If the HMO hospital *retains ownership of the property* (even if the patient does not return the property), the hospital is the consumer of the property. As the consumer, the hospital cannot purchase the equipment with an exemption certificate. Tax will generally apply to the hospital's purchase.

## Surgical Centers

Typically, surgical centers are freestanding centers that provide medical services on an out-service basis for stays of less than 24 hours. Sales of prescribed medicines to patients by such centers are generally subject to tax because the medicine is not considered to be furnished by a “health facility,” as defined in Regulation 1591(g), *Medicines and Medical Supplies, Devices, and Appliances*.

If a surgical center has its own pharmacy, medicine sold from that pharmacy are exempt when sold to a patient under prescription from a doctor and filled by a registered pharmacist. The pharmacy may issue a tax exemption certificate (see pages 25-26) to purchase such medicines. (*Note:* To be exempt, the charges for the medicines must be separately stated on the invoice.)

However, because most surgical centers do not have their own pharmacy and typically bill patients in a lump sum (they do not itemize their charges), they are generally considered “consumers” of medicines for tax purposes, which means they cannot issue a tax exemption certificate to purchase medicines.

Because the application of tax to surgical centers is complicated, operators of such centers should call our Information Center for assistance, 1-800-400-7115.



## 8. For More Information

### Information Center

If you have a general tax question or would like to order a publication, please call our Information Center and talk to a customer service representative. Representatives are available from 8:00 A.M. to 5:00 P.M., Monday-Friday, excluding State holidays. Please call

**1-800-400-7115**

For TDD assistance (telephone device for the deaf), please call

From TDD phones

1-800-735-2929

From voice phones

1-800-735-2922

You can also call us toll-free to report suspected tax evasion. To speak to a representative, call us during working hours at 1-888-334-3300.

### To Verify a Seller's Permit Number

If another seller has given you a resale certificate to make a purchase for resale, you can contact us to verify the seller's permit number shown on the certificate. You can visit our website for that information (see page 31), or you can call 1-888-225-5263. If you call us, you should have the following information available: the seller's permit number, the name and address of the business, and the name of the business owner.

### Questions Regarding Your Account

If you have a question about your account (for example, a question regarding an audit, a tax payment, or a billing), please call the office that maintains your records. The telephone number for that office is printed on your tax returns (see also page 31 for a listing of telephone numbers).

### Fax-Back Service

Selected forms and notices are available on our automated fax-back service. Call 1-800-400-7115, and choose the fax option.

### Publications and Regulations

#### ■ Regulations

The following regulations and publications may be of interest:

- 1503 Hospitals, Institutions and Homes for the Care of Persons
- 1528 Photographers, Photostat Producers, Photo Finishers and X-Ray Laboratories
- 1574 Vending Machine Operators
- 1591 Medicines and Medical Supplies, Devices and Appliances
- 1592 Eyeglasses and Other Ophthalmic Materials
- 1595 Occasional Sales — Sale of a Business — Business Reorganization
- 1602 Food Products
- 1603 Taxable Sales of Food Products
- 1614 Sales to the United States and its Instrumentalities
- 1660 Leases of Tangible Personal Property — In General
- 1667 Exemption Certificates
- 1668 Resale Certificates

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*See next page for information on how to order regulations and publications.*

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- 1698 Records
  - 1700 Reimbursement for Sales Tax
  - 1821 Foreword — District Taxes

### ■ Publications

The following publications may be of interest to you:

- 18 Tax Tips for Nonprofit Organizations
- 22 Dining and Beverage Industry
- 27 Drug Stores
- 44 District Taxes
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To obtain copies of publications and regulations, you may

**Call our Information Center.** Call 1-800-400-7115. If you call during business hours, you can talk to a customer service representative. If you call after working hours, you can leave a recorded message requesting a copy of a publication (you must provide the name of the publication). Certain documents are also available on our fax-back system described on page 29.

**Contact your local Board office.** See page 31 for a listing of their telephone numbers. If you plan to visit the office to pick up a publication, you should call ahead to ensure they have a copy.

**Visit our World Wide Web site.** Some of our publications can be downloaded through the Internet. Our address is <http://www.boe.ca.gov>

### Tax Information Bulletin

As a registered seller, you also receive the quarterly *Tax Information Bulletin*, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to sellers. The bulletin is mailed with your sales and use tax return(s). If you file only once a year and would like to receive all four bulletins, please write to the following address and ask to be added to Mailing List #15: State Board of Equalization; Mail Services Unit, MIC:12; Attn: Addressing Systems; P.O. Box 942879; Sacramento, CA 94279-0012

### Written Tax Advice

For your protection, it is best to get tax advice in writing from the Board. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that you reasonably relied on written advice from the Board regarding the transaction. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction.

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**Classes**

You may enroll in a basic sales and use tax class offered by some local Board offices. You should call ahead to find out whether your local office conducts a class for beginning sellers.

**Internet**

<http://www.boe.ca.gov>

We maintain the following information on our web site: sales and use tax rates by county, Board field office addresses and telephone numbers, Taxpayers' Bill of Rights Hearings, publication order forms, an agency profile, and Board Member biographies. You can also download copies of selected pamphlets, forms, and other publications.

**Field Offices**

City	Area Code	Number	City	Area Code	Number
Bakersfield	661	395-2880	San Jose	408	277-1231
City of Industry	562	908-5280	San Marcos	760	744-1330
Culver City	310	342-1000	Santa Ana	714	558-4059
El Centro	760	352-3431	Santa Rosa	707	576-2100
Eureka	707	445-6500	Stockton	209	948-7720
Fresno	559	248-4219	Suisun City	707	428-2041
Laguna Hills	949	461-5711	Torrance	310	516-4300
Norwalk	562	466-1694	Van Nuys	818	904-2300
Oakland	510	622-4100	Ventura	805	677-2700
Rancho Mirage	760	346-8096			
Redding	530	224-4729			
Riverside	909	680-6400	<b>Offices for Out-of-State Accounts</b>		
Sacramento	916	227-6700	Chicago, IL	312	201-5300
Salinas	831	443-3003	Houston, TX	281	531-3450
San Diego	619	525-4526	New York, NY	212	697-4680
San Francisco	415	703-5400	Sacramento, CA	916	227-6600



## *What do you think of this pamphlet?*

We hope that this newly revised tax tip pamphlet will help you to better understand the Sales and Use Tax Law as it applies to your organization.

We would appreciate it if you could take a few minutes to give us your comments and suggestions for this pamphlet, so that we can improve future revisions. We'd also like to have some information that will help us make our publications program more useful to you. Please answer the questions below and on the reverse, remove the page, and return it to us. It is designed as a postage-paid self-mailer: you may fold the page as indicated and seal it with two pieces of tape.

Thank you for taking the time to respond to this survey.

### **\ Pamphlet Comments and Suggestions**

1. Does this pamphlet help you apply the sales and use tax in your business operations?
2. Are there any sections of the pamphlet that you find particularly helpful? (please note)
3. Are there any sections of the pamphlet that you find confusing? (please explain, if possible)
4. Are there any topics not addressed in this pamphlet that you would like us to include?
5. Are there any sections of the pamphlet that you feel are incomplete? What would you add to them?
6. Do you have any other comments or suggestions for improving this pamphlet?

*Please answer questions on reverse*

date\_\_\_\_\_

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State Board of Equalization  
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## Reader Survey Information (please check all boxes that apply)

What is the nature of your organization's work?

☐ Other (please list) \_\_\_\_\_

How long have you been in business?

- ☐ less than one year    ☐ 1-5 years  
☐ 6-10 years    ☐ more than 10 years

Did you receive a copy of this pamphlet (or an earlier version) when you applied for or received your seller's permit?

- ☐ yes    ☐ no    ☐ not sure

How did you find out about this pamphlet?

- ☐ Board field office  
☐ Board auditor  
☐ Tax Information Bulletin  
☐ Publications listing in a Board pamphlet

Where did you obtain this pamphlet?

- ☐ Board field office  
☐ Board auditor  
☐ Board Supply Unit  
☐ Tax Information Center  
☐ Other (please list) \_\_\_\_\_

Do you use any other Board publications to help you apply or understand the California Sales and Use Tax Law? (please list) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

California State Board of Equalization  
450 N Street • Sacramento, California  
(Mailing Address: P.O. Box 942879 • Sacramento, CA 94279-0001)